

MINUTES

MONTANA SENATE 58TH LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON SENATE BILL 360

Call to Order: By **SEN. FRED THOMAS**, on April 16, 2003 at
11:00 A.M., in Room 317A Capitol.

ROLL CALL

Members Present:

Sen. Fred Thomas, Chairman (R)
Sen. Vicki Cocchiarella (D)
Rep. Bill Wilson (D)

Members Excused: Sen. Royal Johnson (R)
Rep. Stanley (Stan) Fisher (R)
Rep. Joe McKenney (R) Proxy

Members Absent: None.

Staff Present: Dave Bohyer, Legislative Council
Fredella D. Haab, Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB360, 4/15/2003

CHAIRMAN FRED THOMAS, SD 31, STEVENSVILLE, said this amendment was primarily put on the bill just to give us an amendment to get it in a conference committee. It was his thought to strip the amendment out. The amendments that **Mr. Petesch, Legislative Services**, had drafted on page 3, line 1, following the second reference to fund insert "for claims for injuries occurring on or after July 1, 1990." Our purpose was to clarify that this doesn't apply to any old fund aspect. There were no other amendments to be considered.

Ms. Nancy Butler, State Fund, Helena, said the amendment had struck the effective date and this made us happy.

Mr. Jerry Driscoll, MT AFL-CIO thought that the Board of Investments kept the accounts separate and if you identified the accounts which said you may not take any money out of the new fund. The debate on the floor of the House was they were afraid that they couldn't take any of the old fund money and when he asked him about the effective date and this language, **REP. DAVE LEWIS, HD 55, HELENA**, said he didn't think it would work. If you identified the accounts, and said you may not take any money out of account "x," it would be very clear. He didn't know if you could name account numbers or not.

Ms. Butler said they distinguished them as claims before July 1, 1990 or claims after and this was how they kept these two separated as by that type of reference. She felt what **Mr. Petesch** had drafted met what they were trying to do but maybe they needed to clarify it.

CHAIRMAN THOMAS asked if there was an account they could reference?

Ms. Butler said there were definitely two accounts.

CHAIRMAN THOMAS asked if there were talking about money accounts?

Dave Bohyer, Legislative Services, stated it was not appropriate, and that was why it was not in there.

CHAIRMAN THOMAS asked if **Mr. Bohyer** could think of another way we can adopt something along the line that **Mr. Driscoll** has brought up.

Mr. Bohyer stated it could be commonly referred to as the "new fund."

CHAIRMAN THOMAS wondered if there was a reference in there that we could make that identified the "new fund" or was it a different name?

Ms. Butler said they were the Sate Fund, in her opinion, and the "old fund" was strictly before July 1, 1990 and the "new fund" was after July 1 and that was how they kept the separation of the money. That was why **Mr. Petesch** repeated those words.

Mr. Driscoll thought they should talk to **REP. LEWIS** to explain this was the way it had always been done.

CHAIRMAN THOMAS said it was done by separation of date.

Terry Johnson, Legislative Fiscal Division, echoed what they said because they tried in some other bill and they said no. He thought they were stuck with something like this and hopefully it made it clear.

CHAIRMAN THOMAS said this bill did not apply to the "old fund" now. Once you put the policies going forward type of thing, this amendment took it back and secured it better than the current bill because they could make the argument that they could take the money that was accrued from 1990 until now until you put this in the policy language. Then only going forward on monies, this was a better amendment to go back to 1990.

SEN. VICKI COCCHIARELLA asked if there was any other issue then making sure they could get old fund money? It was the truth. Was that why he did this? He wanted to make sure that they could still go get that money.

CHAIRMAN THOMAS said the amendment on the floor was designed to amend the bill so they could reject it and do it in a better time frame and more logical and we would know for sure what we were doing. This amendment was solely meant primarily to cause a conference committee.

Ms. Butler said it was not. It was kind of sticky language.

CHAIRMAN THOMAS asked **Mr. Bohyer** if he had any more thoughts?

Mr. Bohyer said he did. He thought **Ms. Butler's** idea confused it terribly because what they were talking about was what was to be deposited in the State Fund. It had nothing to do with what may be transferred out of the State Fund. If you were the State Fund and you don't want to confuse the "old fund," you don't want to confuse that by putting together what was in the State Fund. It was better to do it the way **Mr. Petesch** did it.

Mr. Driscoll asked what section of law when we had the old fund tax it went into. It was section 39 something that the money went into. The new fund was 39712321.

Mr. Bohyer said he couldn't remember what it was.

Mr. Driscoll wanted to put those numbers instead of the account numbers with the section of law.

Ms. Butler said they could just repeal it and then make an accounting distinction of all the money pre and all the money post.

Mr. Bohyer said they can't unrepeal but you can reenact.

Mr. Driscoll said they had enough votes they could put accounting numbers in the bill.

Mr. Bohyer said they could, but it was ill advised. They would have to do it for all the accounts because assigning accounts was an executive branch function not the legislative function. It was not a policy issue.

Motion/vote: SEN. COCCHIARELLA moved TO REPEAL THE HOUSE AMENDMENT AND TO AMEND GREG PETESCH'S AMENDMENTS. Motion carried unanimously. REP. JOE MCKENNEY PROXY VOTED AYE BY SEN. THOMAS.

ADJOURNMENT

Adjournment: 11:20A.M.

SEN. FRED THOMAS, Chairman

Fredella D. Haab, Secretary

EXHIBIT (frs82sb0360aad)